

1 NATIONAL GAMBLING IMPACT STUDY COMMISSION

2
3 SECOND REGULAR MEETING

4
5 Tuesday,
6 August 19, 1997
7

8
9 The meeting took place in the Chesapeake Room,
10 Watergate Hotel, 2650 Virginia Avenue, N.W.,
11 Washington, D.C. 20037, at 9:00 a.m., Kay C. James,
12 Chairperson, presiding.
13

14 PRESENT:

15
16 KAY C. JAMES, Chair
17 WILLIAM A. BIBLE, Commissioner
18 JAMES C. DOBSON, Commissioner
19 J. TERRENCE LANNI, Commissioner
20 RICHARD C. LEONE, Commissioner
21 ROBERT W. LOESCHER, Commissioner
22 LEO T. MCCARTHY, Commissioner
23 PAUL H. MOORE, Commissioner
24 JOHN W. WILHELM, Commissioner
25 CALVIN SNOWDEN, Agency Liaison
26

27 SENATOR RICHARD BRYAN, Speaker
28 FRANK FAHRENKOPF, JR. , Speaker
29 CHARLES GRIFFITHS, Speaker
30 RICK HILL, Speaker
31 FAITH MITCHELL, Speaker
32 CAROL PETRIE, Speaker
33 BARBARA TORREY, Speaker
34

35 ALSO PRESENT:

36
37 ERIC ALTMAN STEVE REED
38 TIM BIDWILL, Staff ROBERT REGIER, Staff
39 MARK BOGDAN, Staff RON RENO
40 PAUL CONWAY CAROL SIMPSON, Staff
41 DEBORAH DUCRE, Staff CRAIG STEVENS, Staff
42 JOHN LITTEL TODD WESTERGARD
43 MATT LOWERS STEVE WHITE, Staff

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1 P-R-O-C-E-E-D-I-N-G-S

2 (9:04 a.m.)

3 CHAIRPERSON JAMES: I'm going to call the
4 meeting to order. If Commissioners could take their
5 chairs, please. Good morning. Let me start with a
6 housekeeping announcement. You may hear some of the
7 feedback on the microphones. So we are going to ask
8 Commissioners that if you are not speaking to turn
9 your microphone off and turn it on again. Is that
10 what you need? Evidently, there is a button somewhere
11 on the top if you can find it. That would help
12 facilitate with the noise problem.

13 Good morning, Commissioners, guests, and
14 members of the media. Welcome to the second regular
15 meeting of the National Gambling Impact Study
16 Commission. In addition to hearing from invited
17 speakers and discussing the research contracts, this
18 meeting will be devoted to important administrative
19 matters. While the time that has passed since our
20 last meeting is only two months, I can tell you that
21 this seems much longer to the many individuals who
22 have been working on resolving the routine and yet

1 complicated administrative issues related to a
2 national commission start-up.

3 I want to start the meeting again today by
4 thanking those individuals whose efforts were
5 instrumental in making this meeting a reality. In
6 particular, I applaud the staff of the General
7 Services Administration represented by our liaison,
8 Calvin Snowden. I also want to extend my appreciation
9 to the personal staffs of the Commissioners, who have
10 been extremely patient. The start-up of any
11 government organization is frustrating and filled with
12 bugs and pitfalls. The Commission is no exception and
13 I am grateful for the consistent cooperation that we
14 have experienced from each of the Commissioners and
15 from their staffs.

16 Lastly, I want to thank the Commissioners
17 for their input and efforts during this time,
18 particularly Commissioner McCarthy. He and
19 Commissioners Dobson and Wilhelm have worked
20 diligently to produce objective information for the
21 Commission to consider today. And to those
22 Commissioners who have provided suggestions, staff

1 recommendations, and asked meaningful questions about
2 our work, again I want to thank you as well.

3 The danger of dealing with administrative
4 issues is that they can quickly consume all of our
5 energy and direct us away from the truly important
6 work that needs to be done. Fortunately, the media
7 remind us on an almost daily basis about the gravity
8 of the issues that we are charged with considering.
9 My office staff and I, particularly those people
10 working in our mailroom have become acutely aware in
11 the past three months about the volumes of articles
12 and news stories that are being published about
13 gambling. If any of you made it up in time this
14 morning, you will see on the front page of the
15 Washington Post yet another article dealing with these
16 important issues.

17 The three stories that I want to call your
18 attention to this morning that have been in the press
19 in the past two weeks illustrate the vital importance
20 of the Commission and what our deliberations will
21 have. First, in Maryland, was the revelation that the
22 Maryland lottery had targeted senior citizens in

1 special marketing campaigns, and this included prizes
2 of T-shirts and other premiums for those individuals
3 living in nursing homes who played the lottery.

4 Secondly, there were the allegations made
5 about the role of legalized gambling in the disputed
6 Senate seat in Louisiana, which resulted in several
7 subpoenas being issued by the U.S. Senate Rules
8 Committee for an upcoming hearing in New Orleans,
9 including at least one gambling executive.

10 Finally, related to an issue we will hear
11 more about later today, the first full Internet based
12 gambling site was launched by the Coeur D'Alene tribe
13 in Idaho prompting several lawsuits and numerous
14 articles.

15 These are timely reminders of the
16 important issues that we will consider. These are
17 truly important issues. I think it is important for
18 us to do our work today, getting through the
19 administrative portion of our agenda, so that we can
20 begin to look at the real meat of the work of this
21 Commission.

22 What is our work here? Unfortunately, it

1 bears repeating yet again because it has been
2 misunderstood and incorrectly described by so many.
3 It is not to draft legislation to prohibit gambling.
4 Nor is it to tell the states how they should regulate
5 gambling. Nor is it to impose a moral judgment on
6 either the merits or negatives of gambling. It is
7 simply, if I may use that word, to do what the
8 American people, through their elected representatives
9 in Congress, have asked us to do, and that is to
10 conduct a comprehensive, factual, and legal study of
11 the social and economic impact of legalized gambling.

12 As Senator Lugar said during the floor
13 debate on the bill that created this Commission,
14 information is the goal of this commission, and
15 information will strengthen the democratic decision-
16 making process. Commissioner McCarthy noted how
17 important the work of the commission will be to the
18 thousands of policy makers at the state and local
19 level who are considering laws and policies for
20 gambling. They and others in the legislatures, town
21 halls, and communities of America are waiting to see
22 what we discover, our analysis of that information,

1 and what we recommend.

2 Before we begin that process, I want to
3 report on the work that we have been doing in the past
4 two months, primarily on those bedeviling
5 administrative details. Working with GSA's property
6 management staff, we examined several properties in
7 the Washington area for office space. We selected and
8 have moved into an office suite at 800 North Capitol
9 Street, which coincidentally is the same building as
10 the Federal Register and the new home of the Advisory
11 Commission on Intergovernmental Relations.

12 I have interviewed many individuals for
13 positions on the Commission staff, which we will
14 discuss later this morning. In addition, I have
15 requested detailees from eight cabinet departments.
16 Two departments, the Department of Education and the
17 Department of State, have contacted us at this point
18 to get further information. The Department of State
19 expressed their pleasure at our having contacted them,
20 but indicated that at this point they do not believe
21 they have the resources available to meet our specific
22 needs. The Department of Education is working

1 internally to identify potential detailees, and I will
2 provide an update on this process by the next meeting.

3 Based on the direction of the Commission
4 at the last meeting, I have spent considerable time
5 addressing the legal issues and representation for the
6 Commission. Let me attempt to clarify the
7 Commission's status at this point, and Calvin Snowden
8 can expand upon this later if necessary. The
9 Commission is a hybrid in every respect. There is no
10 federal executive agency with clear oversight
11 authority. The Office of Personnel Management and the
12 Office of Legal Counsel at DOJ have determined that
13 the Commission is a legislative commission. As such,
14 under a practice known as the Odd/Even Rule, the
15 United States Senate has certain jurisdiction since
16 the law was enacted in an even year.

17 As was discussed at the last meeting, the
18 General Services Administration has determined that
19 the Commission is subject to the Federal Advisory
20 Commission Act as an independent presidential advisory
21 committee. This has been informally affirmed by
22 numerous agencies with involvement in these activities

1 and is indicated to be the intent of Congress
2 according to the floor debate in the Senate.

3 This means that we have certain standards,
4 certain rules and requirements, all of which are
5 designed to insure that policy is discussed in an open
6 and honest manner. While burdensome, these rules
7 protect the Commission and individual Commissioners,
8 but more importantly, they protect the American
9 public.

10 GSA, by the provisions of Executive Order
11 No. 12024, regulations enacted for the Advisory
12 Committee Act and through the memorandum of
13 understanding entered into with the Commission shall
14 provide administrative, legal, and other services
15 associated with the operation of the Commission under
16 FACA.

17 A few Commissioners asked that I inquire
18 about the possibility of legal counsel from the
19 Department of Justice, which I did. While the
20 Attorney General is constitutionally the attorney for
21 the entire Executive Branch, it is unusual for the
22 Department to provide such service to a board or

1 commission. In fact, in a ruling from the Office of
2 Legal Counsel at DOJ dated August 14, 1997, the
3 Department has declined to provide legal services to
4 the Commission, citing our standard as a Legislative
5 rather than an Executive Branch agency. This letter
6 was distributed this morning. GSA's legal counsel
7 will continue to provide legal services. They are
8 copying the letter and it should be here momentarily.

9 What all of this means is the following.
10 For the purposes of general operation guidelines and
11 authority, the Commission follows the Federal Advisory
12 Committee Act and subsequent regulations. For the
13 purpose of financial disclosure forms, only
14 Commissioners and staff working in excess of 60 days
15 per year and earning \$84,000.00 or more must submit
16 Senate disclosure forms to the Senate Ethics
17 Committee. The chairman is responsible to insure that
18 no conflict of interest shall exist, and we will
19 discuss this later in the meeting, since Congress
20 clearly intended for members of the industry to
21 participate in this Commission.

22 The members of the Commission are special

1 government employees protected by the Federal Tort
2 Claims Act, but not subject to the standards of
3 conduct which apply to regular Executive Branch
4 employees.

5 The General Accounting Office has
6 jurisdiction over matters or disputes related to the
7 appropriation for the Commission, and GSA will provide
8 support services, including legal services, to the
9 Commission. In the event that a general counsel is
10 hired, this individual will work in conjunction with
11 legal counsel of GSA. Again, Mr. Snowden can explain
12 this in greater detail later today.

13 It is important to keep these principles
14 in mind as we proceed through the next two days,
15 particularly as we discuss the rules tomorrow. The
16 Federal Advisory Committee Act is intended to protect
17 the American public by insuring that policy is debated
18 and developed in an open and fair manner. It is also
19 one of the single greatest sources of litigation at
20 the federal level. It is my responsibility and my
21 desire to insure that the public have the greatest
22 amount of participation available, while at the same

1 time to protect the Commission and Commissioners from
2 unnecessary and burdensome litigation.

3 Now today's agenda includes presentations
4 from Senator Richard Bryan, American Gaming
5 Association president, Frank Fahrenkopf, and Rick
6 Hill, the Chairman of the National Indian Gaming
7 Association, as well as a discussion of the proposed
8 research questions and contracts. Tomorrow, we will
9 discuss the proposed Commission rules, the workplan,
10 proposed subcommittees, and hear from interested
11 members of the public.

12 In closing, I want to reiterate something
13 that I stated at the first meeting. I intend to use
14 my role as chair to protect the diversity of opinion
15 regarding legalized gambling that exists on this
16 Commission, and indeed throughout the nation. This
17 diversity is crucial to the discussion we shall have
18 over the next two years. My role as chair will be to
19 guarantee that diversity, to insure that the
20 proceedings of the Commission are conducted in a fair,
21 balanced, and objective manner that respectfully
22 permits divergent opinions and includes factual

1 information crucial to the completion of our task at
2 hand, namely to conduct a comprehensive legal and
3 factual study of the social and economic impacts of
4 gambling.

5 Again, Commissioners and public, thank you
6 for being here today. In your briefing materials
7 behind Tab 2, you will find a copy of the minutes from
8 the last meeting of the Commission. These are a
9 summary of the transcript as required by law. And as
10 I stated at the last meeting, the full transcripts are
11 always available for the Commissioners to review. At
12 this point, I would like to entertain a motion to
13 adopt the minutes?

14 COMMISSIONER LOESCHER: Madam Chair?

15 CHAIRPERSON JAMES: Yes.

16 COMMISSIONER LOESCHER: I would like to
17 ask that we defer this kind of a question until after
18 these presentations are over and then we would start
19 with the consideration of approval of the agenda and
20 then the minutes and what so on.

21 CHAIRPERSON JAMES: If that is your
22 pleasure, I certainly have no problem with that.

1 COMMISSIONER LOESCHER: Thank you very
2 much.

3 CHAIRPERSON JAMES: Moving along, we are
4 fortunate -- we were fortunate at our last meeting to
5 hear from the original sponsors of the legislation
6 which created this Commission. Let me emphasize yet
7 again that they were invited because they were the
8 sponsors of the legislation and it was important to
9 hear from them. Today, we are joined by a member of
10 Congress who has had many constituents with firsthand
11 knowledge of the social and economic impact of
12 legalized gambling. Senator Richard Bryan, a native
13 of Southern Nevada, was re-elected to a second term in
14 the United States Senate on November 8, 1994. He has
15 also served as Governor of that state. For more than
16 a decade, he has been an ardent advocate for the
17 consumer. He has championed increased consumer
18 protection, efforts to curb illegal immigration, and
19 limit federal spending and has participated in
20 numerous bills related to gambling. I know that this
21 is, in fact, an important day in your state, Senator,
22 with the surprise visit of Secretary Pena to discuss